

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

June 15, 2004

The Capital Projects and Bond Oversight Committee met on Tuesday, June 15, 2004, at 1:00 PM, at the new Transportation Cabinet Office Building in room C417. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Leeper, Co-Chair; Representative Jodie Haydon, Co-Chair; Senator Tom Buford; and Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Guests testifying before the committee: Bob Wiseman, University of Kentucky; Jamie Link and Steve Biven, Finance and Administration Cabinet; Bill Hintze, Governor's Office for Policy and Management; Larry Barker, Department for Military Affairs; Jim Ackinson and Lori Flanery, Kentucky Housing Corporation; and George Burgess and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, and Shawn Bowen.

Mr. Dick Murgatroyd, Deputy Secretary of the Transportation Cabinet, welcomed the Committee to the new Transportation Cabinet Office Building. He briefly discussed the new building.

Representative Marcotte made a motion to approve the minutes of the May 18, 2004 meeting as submitted. The motion was seconded by Senator Leeper and passed by voice vote.

Representative Haydon called on Ms. Collins to review correspondence and information items. Ms. Collins said members' folders contained three items of correspondence: correspondence from the Council on Postsecondary Education (CPE) reporting its approval of unbudgeted projects at the University of Kentucky (UK) and Western Kentucky University; correspondence from CPE reporting on reallocation of bond authorization from the 2002-2004 CPE Agency Bond Pools; and the Kentucky Lottery Corporation's monthly financial report for April 2004.

Ms. Collins said also included in members' folders were two information items: a monthly staff update on various capital projects and information from Moody's Investor Services about placement of Kentucky on their watchlist for possible downgrade in bond ratings.

Representative Haydon asked Mr. Bob Wiseman, Associate Vice President for Facilities, UK, to update Committee members on the reconstruction of the UK Administration Building. That building was heavily damaged by fire in May 2001, caused by a contractor doing welding on the roof area. Mr. Wiseman said the project is scheduled for completion in September 2004. The project will cost approximately \$17,350,000, and the University is continuing its fundraising to meet that need. The cost of the project will be covered from insurance proceeds (\$7,900,000) and private donations (\$9,450,000).

Representative Marcotte noted the cost of the reconstruction is double the insurance proceeds. He asked if this cost increase was anticipated. Mr. Wiseman said the University's goal is to address the gap between the insurance payoff and the cost of the project. They are still involved in a lawsuit with the contractor that caused the fire. Mr. Wiseman said private donations, to date, total approximately \$4 million, including \$750,000 in tentative commitments.

In response to a question by Representative Marcotte, Mr. Wiseman said the new Administration building is a different building as a result of the project. It now includes a Visitor's Center, large and small "smart" classrooms, and ceremonial and meeting space. A fourth floor was added by excavating the basement.

In response to a question from Representative Wayne, Mr. Wiseman said the University anticipated receiving private funds for this project fairly quickly. Unfortunately, they were unable to obtain all of the needed private funding before the start of reconstruction. He said the 911 disaster seriously impacted their fundraising on this project as well as other projects at the University. He said the University does not have a contingency plan in place if they fall short of funds for this project. If this should happen, they will come back to the Committee with plans of how to finance the reconstruction.

Representative Wayne said as stewards of the people's money, the Committee wants to have assurances that private funds are in hand and in writing before any privately-funded construction is started. Mr. Wiseman said he agreed, and in the future, they will do this. Representative Haydon said no action was required on this project.

Representative Haydon asked Mr. Hintze, Deputy Budget Director, Governor's Office for Policy and Management, and Mr. Jamie Link, Deputy Commissioner, Department for Facilities Management, to present the Finance Cabinet's monthly report

to the Committee. Mr. Hintze reported an allocation of \$110,400 from the Emergency Repair, Maintenance and Replacement Account to increase the project scope of the Natural Bridge State Park Water System Improvements project. Mr. Hintze said this project was appropriated \$500,000 in the 2003 Session of the General Assembly. The revised project scope is \$610,400. Representative Haydon said no further action was required for this project.

Mr. Hintze next reported a fund substitution for the Western Kentucky Veterans' Cemetery project, using operating funds. This project was authorized in the 2000 session of the General Assembly for \$2,825,000. Over a period of time, the Committee approved three scope increases - \$1,175,000, \$2,305,000 and \$150,000, for a revised project scope of \$6,455,000. Mr. Hintze said when the cemetery opened March 1, 2004, some serious problems were discovered on site. All of the pre-placed burial vault lids had cracks that rendered them unusable and unreliable and did not meet the specifications required by the Department of Veterans' Affairs. Mr. Hintze said the vaults will be replaced by the contractor or vault supplier at no charge; however, because of the logistical impediments to using the new plot while the vaults are being replaced, they will have to open another tract of land much earlier than initially anticipated. They will also need to purchase additional single-depth grave liners at a cost of \$25,000. Mr. Hintze said that since the federal government will not pick up this cost, the Finance Cabinet has approved the \$25,000 expenditure from the current operating budget of the Department of Veterans' Affairs.

Representative Wayne said he thought it was not good policy for the state to take over control of the veterans' cemeteries. It is a federal issue.

Representative Damron asked what would happen to the \$25,000 if it is not used. Mr. Hintze said the funds would either be spent in the current fiscal year or would lapse to the General Fund at year's end. Representative Damron said he did not want the funds to lapse to the General Fund.

Senator Buford made a motion to approve the scope increase for the Western Kentucky Veterans' Cemetery project. The motion was seconded by Representative Marcotte and passed by roll call vote. Five members voted affirmatively; Representative Wayne voted "No".

Mr. Hintze next reported a \$75,000 scope increase for the VETS Building Replacement project at the Boone National Guard Center in Frankfort. Mr. Hintze said the scope of the project is increasing due to higher steel prices. He said while working with the Department for Facilities Management, the staff of the Department of Military Affairs (DMA) realized the cost of the building had been underestimated by \$75,000. The Department has requested that the \$75,000 be made up of \$25,000 currently available

from its Maintenance Pool and the remaining \$50,000 would come from its fiscal year 2005 Maintenance Pool.

Mr. Hintze said the project must be under contract prior to September 1, or the federal funds will be lost. (The total cost of the project, including the scope increase is \$1,175,000: \$825,000 federal funds and \$350,000 DMA maintenance pool funds.)

Representative Haydon said the Committee did not have the power to approve this scope increase because there is no budget or spending plan for fiscal year 2005. He said they could defer the project until a budget or a spending plan is enacted.

Representative Wayne said he did not believe the state would lose the federal money if this project is deferred by one month. He said one month from now they may have the legal authority, either through the executive plan or an approved budget. Senator Buford said they need to get a contract in place by August, and if the Committee does not act until July, they will only have three weeks to get a contract in place.

Representative Damron said he did not believe a spending plan proposed by the Governor would be legal, and to vote on this project now may complicate the process. He said the Secretary of Finance and Administration could always override the Committee's decision on this request.

Senator Buford made a motion to approve the scope increase. The motion was not seconded.

In response to a question by Representative Haydon, Mr. Hintze and Larry Barker, Department of Military Affairs, reiterated that the federal funds were appropriated specifically for this project, and if there is no contract during the early part of September, they will lose the money.

Representative Haydon asked how long would it take to get a contract. Mr. Link said it would be a push, but if they started now with design and allowed a 30-day bid time, they could probably have a contract in place by mid-to-late August.

Representative Damron made a motion to defer the Department of Military Affairs' project until the July Committee meeting. The motion was seconded by Representative Wayne and passed by roll call vote. Five members voted affirmatively; Senator Buford voted "No".

Mr. Link then discussed an \$893,000 Energy Savings Performance Contract for the Capital Plaza Tower. Earthwell Energy Management of Louisville will install energy conservation measures in the Capital Plaza Tower. The conservation measures include

replacement of lighting and HVAC controls and water conservation measures. The pay back is six years.

In response to a question from Representative Wayne, Mr. Link said the life of the replacement lighting is well in excess of six years. He said they wanted to have a short pay back period and capped it at six years. The scope of the work and the energy savings must pay back the cost of the work in six years. Representative Haydon said no further action was required for this project.

Representative Haydon recognized the new Commissioner for Facilities Management, Mr. Jim Abbott. Mr. Abbott said he looked forward to working with the Committee again.

Mr. Steve Biven, Director for the Division of Real Properties, presented a lease modification report for the Office of the Attorney General (AG). Mr. Biven said the AG's Office submitted a request to upgrade its HVAC equipment in the office they lease at Capitol Complex East in Frankfort. He said the AG's office has an emergency declaration to perform this work. The cost of the equipment and associated work is \$6,715, and will be amortized over the remaining lease term (June 30, 2005).

Representative Wayne noted that in 2002, when the request for the cooling equipment was first made, two companies submitted bids for the improvements. He noted that according to the materials submitted to the Committee, last Fall Sorg Heating and Cooling was given an opportunity to resubmit another bid. He asked if the other company, Warnick Construction, was given the same opportunity. Mr. Biven said Warnick Construction maintained the bid originally submitted.

Representative Wayne asked what kind of policy the Department for Facilities Management has in place to make sure taxpayers are not overpaying for these modifications. Mr. Link said they have a written policy requiring lessors to seek competitive bids for lease improvements requested by state agencies. He said they will not accept just one bid from a local contractor. Representative Haydon said no further action was required for the lease improvement.

Representative Haydon asked Mr. Jim Ackinson, Chief Financial Officer, Kentucky Housing Corporation (KHC) and Lori Flanery, Legal Counsel, KHC, to report on newly developed procedures and guidelines for conduit bond financing for multifamily housing. Under this program, KHC will agree to issue bonds for multifamily housing (low to middle income) at a tax-exempt rate on behalf of a private entity, but the private entity will have full responsibility for repayment of the bonds. Mr. Ackinson said in preparing these guidelines, they addressed two chief concerns by defining the KHC review process and developing a timetable so certain steps will be completed before the financing proposal is submitted to the Committee.

Ms. Flanery briefly discussed the new procedures and guidelines. She said these procedures were developed internally by KHC staff and were shared with Representative Wayne and the Committee's staff.

In response to a question from Representative Wayne, Ms. Flanery said the guidelines require consideration of local zoning and planning laws.

Representative Wayne complimented Mr. Ackinson and Ms. Flanery, and said it had been a pleasure to work with both of them.

Representative Wayne explained that these procedures were developed based on a conduit bond financing backed by KHC and presented to the Committee at a previous meeting. He said the development that sparked this discussion was in his district, and he was not aware of it before it was brought to the Committee. He said he felt that the project was improved through the open discussions generated through the committee process. He said the earlier legislators know about these kinds of projects, the more they can stay in touch with their constituents to find out what is appropriate for their local area. KHC responded that the process was improved with input from the Committee members and staff.

Mr. Ackinson then presented a new bond issue, KHC Multifamily Housing Conduit Revenue Bonds, Series 2004A Village Manor Apartments (up to \$10,250,000). Mr. Ackinson said Village Manor is a 251-unit complex in the Crescent Hill area of eastern Jefferson County, which will be renovated. The property is a low-income housing tax credit project and at least 50% of the occupants are students of the Southern Baptist Seminary.

Representative Damron asked why the term for these bonds is 42 years. Mr. Ackinson said 42 years is a typical term for multifamily bond financing. He said there is normally a two-year construction period and a 40 year term.

In response to a question by Representative Damron, Mr. Ackinson said they wanted to be associated with projects that fit the mission of the organization. He said KHC will not be bearing the risk on this project. They are looking at tax credit equity, the bondholders and the people making the loan to analyze the credit characteristics of the project. Representative Damron said he understood that KHC had no financial responsibility for payment of the bonds, but KHC's name is on the contract and they do have some fiscal liability as well as risk to KHC's reputation.

Representative Damron asked if the developer has money set aside to maintain this facility. Mr. Ackinson said this was the case. He noted the credit characteristics of any multifamily project are very conservative, and FHA will bear the risk as guarantor. Ms.

Flanery added there will be an extended use agreement, and there will be compliance requirements throughout that period, both for affordability and for quality.

Representative Wayne said this project is the old Seminary Village. The facility is at least 50 years old, is built soundly, and has been well-integrated into the neighborhood. He asked if the St. Matthew's or the Crescent Hills Neighborhood Associations were included in the discussions regarding this development. Mr. Ackinson said those discussions are ongoing with the developers. Ms. Flanery said they held a hearing yesterday, and two people from the associations attended. They indicated that they wanted proper criminal background screenings to be done for Section 8. He said the developers are working now with Tina Ward-Pugh, Louisville Metro Council, to develop a screening process, and they will meet again with residents once those screening processes are developed. She said they are working with several people to develop guidelines for Section 8 tenants as well as other tenants. Mr. Ackinson said it is good public policy to decentralize and move people out of situations such as the Clarksdale Housing Project and integrate them within the community at large.

Representative Wayne made a motion to approve the conduit bond issue for KHC. The motion was seconded by Representative Damron and passed by unanimous roll call vote.

The next report was provided by George Burgess, Executive Director for the Office of Financial Management (OFM), and Tom Howard, Deputy Executive Director, OFM. Mr. Burgess provided a follow-up report for Eastern Kentucky University Consolidated Educational Buildings Refunding Revenue Bonds, Series V, dated June 1, 2004. Representative Haydon said no further action was required for this project.

Mr. Burgess next presented three new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Carroll County, Casey County, and Gallatin County.

Senator Buford made a motion to approve the three school bond issues. The motion was seconded by Representative Marcotte and passed by roll call vote. Five members voted affirmatively; Representative Damron abstained from the vote, citing a potential conflict of interest.

Representative Haydon said there were three locally-funded school bond issues submitted to the Committee for review this month: Henderson County, McCracken County, and Scott County. He said all disclosure information has been filed, and no further action on the bond issues is required.

Representative Haydon said included in members' folders were two reports from the Kentucky Infrastructure Authority (KIA) regarding various new KIA 2020

Account/Fund B Grants and new Coal Development Grants. The Committee has already approved the 2020/Fund B Grants, and the General Assembly authorized each of the coal and tobacco projects identified. No further action was required.

Representative Damron asked what will happen to KIA funding for new projects if there is no enacted budget by July 1. Mr. Hintze said KIA will not issue any new bonds after July 1 unless the legislature enacts a budget prior to that date, even for previously authorized projects. If the project has already been issued money, they will not terminate active construction projects. He said they will not sell any new bonds considered in the 2004 session, and if there are residual bond issues left over from the 2003 session that have not yet gone to market, they will not attempt to take them to market. The only thing they will be doing is actively pursue refinancings where it is in the state's financial interest to do so. Mr. Hintze said if the projects are cash funded from the repayment of loans, those programs will remain active and authorized, and if it is something contemplated in what is termed "leverage funding", it would not be advanced funds.

In response to a question from Senator Leeper, Mr. Hintze said schools that plan to issue bonds requiring School Facilities Construction Commission participation will be able to continue with their projects if they make the June 30 deadline. If those projects do not make the deadline, they will be deferred until the legislature acts. He said they would not attempt to dictate any policy regarding school projects that are to be 100% locally funded.

Representative Haydon said the Committee's next meeting is scheduled for July 20.

With there being no further business, Representative Damron made a motion to adjourn the meeting. The meeting was adjourned at 2:30 p.m. A tour of the new Transportation Cabinet Office Building followed the meeting.